



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG-2021-0214]

RIN 1625-AA08

Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing special local regulations for certain waters of Breton Bay and McIntosh Run. This action is necessary to provide for the safety of life on these navigable waters located at Leonardtown, MD, during a high-speed power boat demonstration event on July 31, 2021, and August 1, 2021. Entry of vessels or persons into this regulated area is prohibited unless specifically authorized by the Captain of the Port Maryland-National Capital Region or the Event Patrol Commander.

DATES: This rule is effective from 7 a.m. on July 31, 2021, through 6 p.m. on August 1, 2021.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2021-0214 in the “SEARCH” box and click “SEARCH.” Next, in the Document Type column, select “Supporting & Related Material.”

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email MST1 Shaun Landante, Sector Maryland-National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410-576-2570, email Shaun.C.Landante@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	Federal Register
NPRM	Notice of proposed rulemaking
§	Section
U.S.C.	United States Code

II. Background Information and Regulatory History

The Southern Maryland Boat Club of Leonardtown, MD, has notified the Coast Guard that it will be conducting the Southern Maryland Boat Club Wharf Summer Regatta from 9:30 a.m. to 4 p.m. on July 31, 2021, and from 10:15 a.m. to 4 p.m. on August 1, 2021. The high-speed boat event consists of approximately 50 participating vintage and historic race boats—including runabouts, v-bottoms, tunnel hulls, and hydroplanes – 12 to 21 feet in length. The boats will be participating in an exhibition, operating in heats along a marked racetrack-type course 1 mile in length and 150 feet in width, located in Breton Bay and McIntosh Run at Leonardtown, MD. The Regatta is not a competition, but rather a demonstration of the vintage race craft. Hazards from the high-speed power boat demonstration event include participants operating within and adjacent to designated navigation channels and interfering with vessels intending to operate within those channels, as well as operating within approaches to local public boat landings. In response, on June 10, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled “Special Local Regulation; Breton Bay, McIntosh Run, Leonardtown, MD” (86 FR 30851). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this high-speed power boat event. During the comment period that ended June 25, 2021, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be impracticable and contrary to the public

interest because immediate action is needed to respond to the potential safety hazards associated with this high-speed power boat event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 46 U.S.C. 70041. The Captain of the Port (COTP) Maryland – National Capital Region has determined that potential hazards associated with the high-speed power boat event would be a safety concern for anyone intending to operate within certain waters of Breton Bay and McIntosh Run at Leonardtown, MD, operating in or near the event area. The purpose of this rule is to protect event participants, non-participants, and transiting vessels before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published June 10, 2021. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes special local regulations from 7 a.m. on July 31, 2021, through 6 p.m. on August 1, 2021. The special local regulation will be enforced from 7 a.m. through 6 p.m. on July 31st and 7 a.m. through 6 p.m. on August 1st. The regulated area covers all navigable waters of Breton Bay and McIntosh Run immediately adjacent to Leonardtown, MD, within an area bounded by lines drawn shoreline to shoreline, to the south along latitude 38°16'43" N, and to the west along longitude 076°38'30" W.

This rule provides additional information about areas within the regulated area, and the restrictions that would apply to mariners. These areas include a "Race area," "Buffer area," "Milling area" and "Spectator area." They lie within an area bounded to the south by a line drawn along latitude 38°16'43" N and bounded to the west by a line drawn along longitude 076°38'30" W, located in Breton Bay and McIntosh Run at Leonardtown, MD.

The duration of the special local regulations and size of the regulated area are intended to ensure the safety of life on these navigable waters before, during, and after the high-speed power boat event scheduled from 9:30 a.m. until 4 p.m. on July 31, 2021, and from 10:15 a.m. until 4 p.m. on August 1, 2021. The COTP and the Coast Guard Event Patrol Commander (PATCOM) have authority to forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area will be required to immediately comply with the directions given by the COTP or Event PATCOM. If a person or vessel fails to follow such directions, the Coast Guard may expel them from the area, issue them a citation for failure to comply, or both.

Except for Southern Maryland Boat Club Regatta participants and vessels already at berth, a vessel or person would be required to get permission from the COTP or Event PATCOM before entering the regulated area. Vessel operators can request permission to enter and transit through the regulated area by contacting the Event PATCOM on VHF-FM channel 16. Vessel traffic will be able to safely transit the regulated area once the Event PATCOM deems it safe to do so. A person or vessel not registered with the event sponsor as a participant or assigned as official patrols will be considered a spectator. Official Patrols are any vessel assigned or approved by the Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

If permission is granted by the COTP or Event PATCOM, a person or vessel will be allowed to enter the regulated area or pass directly through the regulated area as instructed. Vessels are required to operate at a safe speed that minimizes wake while within the regulated area. Official patrol vessels will direct everyone other than participants while within the regulated area. Spectators are only allowed inside the

regulated area if they remain within a designated spectator area. Only participants and official patrols are allowed within the race area and milling area.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This rule has not been designated a “significant regulatory action” under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB).

This regulatory action determination is based on size, duration, and time of year of the regulated area, which will impact a small designated area of Breton Bay and McIntosh Run for 22 total enforcement hours. This waterway supports mainly recreational vessel traffic, which at its peak, occurs during the summer season. Although this regulated area extends across the entire width of the waterway, the rule allows vessels and persons to seek permission to enter the regulated area, and vessel traffic able to do so safely will be able to transit the regulated area as instructed by Event PATCOM. Such vessels must operate at safe speed that minimizes wake and not loiter within the navigable channel while within the regulated area. Moreover, the Coast Guard will issue Local Notice to Mariners and a Broadcast Notice to Mariners via VHF-FM marine channel 16 about the status of the regulated area.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during

rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the regulated area may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the FOR FURTHER INFORMATION CONTACT section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves implementation of regulations within 33 CFR Part 100 applicable to organized marine

events on the navigable waters of the United States that could negatively impact the safety of waterway users and shore side activities in the event area lasting for eleven hours each day. It is categorically excluded from further review under paragraph L61(a) of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A Memorandum for Record supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Harbors, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security Measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 46 U.S.C.70041; 33 CFR 1.05-1.

2. Add § 100.T05-0214 to read as follows:

§ 100.T05-0214 Southern Maryland Boat Club Leonardtown Regatta, Breton Bay, McIntosh Run, Leonardtown, MD.

(a) *Locations.* All coordinates reference Datum NAD 1983. (1) *Regulated area.* All navigable waters of Breton Bay and McIntosh Run, immediately adjacent to Leonardtown, MD shoreline, from shoreline to shoreline, within an area bounded to the

east by a line drawn along latitude 38°16'43" N and bounded to the west by a line drawn along longitude 076°38'30" W, located at Leonardtown, MD. The following locations are within the regulated area:

(2) *Race area.* The area is bounded by a line commencing at position latitude 38°17'09.78" N, longitude 076°38'22.71" W; thence southeasterly to latitude 38°16'58.62" N, longitude 076°37'50.91" W; thence southwesterly to latitude 38°16'51.89" N, longitude 076°37'55.82" W; thence northwesterly to latitude 38°17'05.44" N, longitude 076°38'27.20" W; thence northeasterly terminating at point of origin.

(3) *Buffer area.* The area surrounds the entire Race Area described in the preceding paragraph of this section. The area is bounded by a line commencing at the shoreline west of Leonardtown Wharf Park at position latitude 38°17'13.80" N, longitude 076°38'24.72" W; thence easterly to latitude 38°16'58.61" N, longitude 076°37'44.29" W; thence southerly to latitude 38°16'46.35" N, longitude 076°37'52.54" W; thence westerly to latitude 38°16'58.78" N, longitude 076°38'26.63" W; thence northerly to latitude 38°17'07.50" N, longitude 076°38'30.00" W; thence northeasterly terminating at point of origin.

(4) *Milling area.* The area is bounded by a line commencing at the shoreline east of Leonardtown Wharf Park at position latitude 38°17'10.07" N, longitude 076°38'14.87" W; thence easterly and southerly along the shoreline to latitude 38°17'01.54" N, longitude 076°37'52.24" W; thence westerly terminating at point of origin.

(5) *Spectator area: Northeast spectator fleet area.* The area is bounded by a line commencing at position latitude 38°16'59.10" N, longitude 076°37'45.60" W, thence northeasterly to latitude 38°17'01.76" N, longitude 076°37'43.71" W, thence southeasterly to latitude 38°16'59.23" N, longitude 076°37'37.25" W, thence southwesterly to latitude 38°16'53.32" N, longitude 076°37'40.85" W, thence

northwesterly to latitude 38°16'55.48" N, longitude 076°37'46.39" W, thence northeasterly to latitude 38°16'58.61" N, longitude 076°37'44.29" W, thence northwesterly to point of origin.

(6) *Southeast spectator fleet area.* The area is bounded by a line commencing at position latitude 38°16'47.20" N, longitude 076°37'54.80" W, thence southerly to latitude 38°16'43.30" N, longitude 076°37'55.20" W, thence easterly to latitude 38°16'43.20" N, longitude 076°37'47.80" W, thence northerly to latitude 38°16'44.80" N, longitude 076°37'48.20" W, thence northwesterly to point of origin.

(7) *South spectator fleet area.* The area is bounded by a line commencing at position latitude 38°16'55.36" N, longitude 076°38'17.26" W, thence southeasterly to latitude 38°16'50.39" N, longitude 076°38'03.69" W, thence southerly to latitude 38°16'48.87" N, longitude 076°38'03.68" W, thence northwesterly to latitude 38°16'53.82" N, longitude 076°38'17.28" W, thence northerly to point of origin.

(b) Definitions. As used in this section:

Buffer area is a neutral area that surrounds the perimeter of the Race Area within the regulated area described by this section. The purpose of a buffer area is to minimize potential collision conflicts with marine event participants or race boats and spectator vessels or nearby transiting vessels. This area provides separation between a race area and specified spectator areas or other vessels that are operating in the vicinity of the regulated area established by the special local regulations.

Captain of the Port (COTP) Maryland-National Capital Region means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region or any Coast Guard commissioned, warrant or petty officer who has been authorized by the COTP to act on his behalf.

Event Patrol Commander or Event PATCOM means a commissioned, warrant, or petty officer of the U.S. Coast Guard who has been designated by the Commander, Coast Guard Sector Maryland-National Capital Region.

Milling area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a milling area within the regulated area defined by this section. The area is used before a demonstration start to warm up the boats engines.

Official Patrol means any vessel assigned or approved by Commander, Coast Guard Sector Maryland-National Capital Region with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

Participant means a person or vessel registered with the event sponsor as participating in the Southern Maryland Boat Club Leonardtown Regatta or otherwise designated by the event sponsor as having a function tied to the event.

Race area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a high-speed power boat demonstration area within the regulated area defined by this section.

Spectator means a person or vessel not registered with the event sponsor as participants or assigned as official patrols and is present with the purpose of observing the event.

Spectator area is an area described by a line bound by coordinates provided in latitude and longitude that outlines the boundary of a spectator area within the regulated area defined by this part.

(c) *Special local regulations:* (1) The COTP Maryland-National Capital Region or Event PATCOM may forbid and control the movement of all vessels and persons, including event participants, in the regulated area. When hailed or signaled by an official patrol, a vessel or person in the regulated area shall immediately comply with the

directions given by the patrol. Failure to do so may result in the Coast Guard expelling the person or vessel from the area, issuing a citation for failure to comply, or both. The COTP Maryland-National Capital Region or Event PATCOM may terminate the event, or a participant's operations at any time the COTP Maryland-National Capital Region or Event PATCOM believes it necessary to do so for the protection of life or property.

(2) Except for participants and vessels already at berth, a person or vessel within the regulated area at the start of enforcement of this section must immediately depart the regulated area.

(3) A spectator must contact the Event PATCOM to request permission to either enter or pass through the regulated area. The Event PATCOM, and official patrol vessels enforcing this regulated area, can be contacted on marine band radio VHF-FM channel 16 (156.8 MHz) and channel 22A (157.1 MHz). If permission is granted, the spectator must pass directly through the regulated area as instructed by Event PATCOM. A vessel within the regulated area must operate at safe speed that minimizes wake.

(4) Only participant vessels and official patrol vessels are allowed to enter the race area and milling area.

(5) Only participant vessels and official patrol vessels are allowed to enter and transit directly through the buffer area, in order to arrive at or depart from the race area.

(6) A person or vessel that desires to transit, moor, or anchor within the regulated area must obtain authorization from the COTP Maryland-National Capital Region or PATCOM. A person or vessel seeking such permission can contact the COTP Maryland-National Capital Region at telephone number 410-576-2693 or on Marine Band Radio, VHF-FM channel 16 (156.8 MHz) or the PATCOM on Marine Band Radio, VHF-FM channel 16 (156.8 MHz).

(7) The Coast Guard will publish a notice in the Fifth Coast Guard District Local Notice to Mariners and issue a marine information broadcast on VHF-FM marine band

radio announcing specific event date and times.

(d) *Enforcement officials.* The Coast Guard may be assisted with marine event patrol and enforcement of the regulated area by other Federal, State, and local agencies.

(e) *Enforcement period.* This section will be enforced from 7 a.m. to 6 p.m. on July 31, 2021, and, from 7 a.m. to 6 p.m. on August 1, 2021.

Dated: July 6, 2021.

David E. O'Connell,

Captain, U.S. Coast Guard,

Captain of the Port Maryland-National Capital Region

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